G.R.S. IX-5]

P 56

Previous references.
Pol 108-19(1-5)

192 v.
(Police)

File No. 2-20

Serial Nos. 1, 2, 3, 5, 96 15 23

Later references.
Pol 69-22
C. 221 of 1922 (Confdl)
Home. 399-22-I (1)
Pol 9-26 (56-62)

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. Twelve.

Part B for October 1922.

SUBJECT

Passing of Hindu processions by and near the mosque at Tiptur.

23) To Syed Dastagir Sahib & other Mohammedan residents of Tiptur
No. P. 2295 of 16.9.22
Informs that the Review petitions filed by them are dismissed for reasons stated.

No P. 2296 of 16.9.22
Forwards copy of the above to Dr. Krishna Rao and other Hindu Residents.

No P 2297 of 16.9.22
Forwards copy of the above to the D. Dr. Tumkur and requests to bring about harmony between the parties

Printed on the Multigraph.

F. R. S. 11] 1920.—21.

GENERAL AND REVENUE SECRETARIAT.

(Police)

NOTES.

File No. 2—20
2

FILE HEADING.

Petitions from outside the State

From Mr. Mahamed Hussen, Secretary Khilafat-Committee, Belgaum
(with Pte. Secy's Memo No 13 ood 7 18-11-1920)
No. Tel. Dated 17-11-1920 Received 22-11-1920

Diary No. 10897.	Enclos. —	Spare Copies. —	Serial No.

BRIEF ABSTRACT OF LETTER.

States that the officials at Tripur allow the Hindus to pass in procession near the mosque against their religious on this occasion & between Hindus & Muslims & prays that the matter may be amicably settled.

NOTES AND ORDERS.

Dewan's order:—
Read 19.11.1920.
bk Secy
2) A report from the D.C. may be called for from Kadur
Chief Secy's note: Initd. M.R.
3) Asst Secy Proth
Please put up a draft
DO (Capt Secy)
Initd. bbs.

NOTES—First Sheet.

(10971)

11047

(2

G. R. S. III-2)

General and Revenue Secretariat. | Police File No. 9 of 1920

Serial No.

(4) Draft D.O. Subdr,
SBB
22/11
for 23/11 Chief Secy
D.M. 22/11

(5) Sent
Le
23.11.20

(6) Issued today
D.M.
23/11

2 To See D.C. and D.M. Tumkur Dt
D.O. No 9/0/90 Dt 23.11.1920.
Calls for a report in the
matter.
Le

3 From the Mohomedans of Tiptur
town.
Dt 13-11-1920.
Stating that the Mohomedans
will not even at the risk of their lives
allow the Hindus to go in procession
before their mosjid with music
band etc.

(7) On a Telegram from Dr.
Mohomed Hussain, Belgaum in the
matter a report has been called
for from the D.M. Tumkur Dt.
as per Dewan's Orders.
Subd for orders

25.11.20. (8) He is not to be signed by anybody.
for 25/11 may be deposited.
D.M.
Nov

NOTE—Contn. sheet.

4599
12259

(14

Serial No.

15) Note the practice
Sec
31.1.21

16) Rules or G.O.'s, if any, may also be put up
D. M.
4/1.

17) Subd with P.R. File 42-20, which is the latest case on the point. There are no G.O.s on the subject.

18) The parties were heard in the said case.
Subd

19) In such cases it will usually be a great satisfaction to the parties if they are given a hearing. The pleaders may perhaps be heard if convenient.
D. M.
8/1

III Members 20) The case may be posted for hearing & the parties informed.
Sec
19/1

Sec
21.1.21

21) Please fix a date in consultation with the P.A.
D. M.
21/1

22) 3 P.M. on Saturday the 5th proximo with sixth Member.
H.
7.2.21

23) Mr. Advocate notified accordingly.
D. M.
21/2

The linked file should be put up to the above.

Hon'ble Member's orders
D. M.
4/1
Sec
4/1

Returned
7.1.21.

4539
7.2.21
Sec
2/1

NOTE.—Contn. sheet.

P.R.
7/2

G. R. S. III-2]

General and Revenue Secretariat. | (Police) File No. 9 of 1920.

Serial No.	
	24) Draft & fair copies of the notices to the appellants & respondents & an order to the Taluk Amildar for service of the notices are subd for approval & signature.
	25) After issue of these notices Mr. C. Narayanaswamy Naidu, Advocate will be apprised of the matter. SBB 18/2/21 26) D'Cruz D. M. 18/2
9	To Dastagiri Sab and other Mohomedans Srinivasa and other Hindus through the Amildar Tiptur &c (Appellants and respondents) in Tiptur No 9 16295 dt 19-2-1921 Issued the notices to the parties to appear before the member on 5-3-1921.
	27) Draft of a letter subd with reference to para 5. SBB 18/2/1921 28) D'Cruz D. M. 21/2 Send the Records to the P.A.
10	To C. Narayanaswamy Naidu, Esqr B.A. B.L. Advocate Bangalore city No 9 dt 19-2-1921 States that notices for the appearance of the appellants & respondents have been issued and that the hearing has been fixed for Saturday the 5th March 1921 at 3 p.m. before the Member of Council

NOTE—Contn. sheet.

18075 6

G. R. S. III-2]

General and Revenue Secretariat. | Police File No. 9 of 1920.

Serial No.

11 From the residents of Tiptur & adjoining villages
Petn dt 29-1-1921

State that there is rupture between the Mahomedans and Hindus in connection with the cessation of music before the Mahomedan mosque & pray that personal enquiry may be made on the spot & the mischief mongers bound over for good behaviour.

28/1 Subd. This may be linked and considered along with the original petition of the Mahomedan residents of Tiptur to whom fresh notices for hearing on 19-3-1921 have been ordered.

To issue.

28/2 28/2 28/2 28/2 Subd for perusal. This will be placed in the main file in which the parties will be heard.

III Member 31/3

D.M. 28/2

D.M. 1/3

30 29 28-2-21

NOTE—Contn. sheet.

1/3

G.R.S. III—3]

Routine Notes.

[To be used only for notes, requisitions, etc., not intended for permanent record.]

(6A

Submitted

(C) The Diplom Procession Case has been posted to the 5th of next month for hearing. But I understand that there will be a meeting of the Council on that day If approved I shall inform the Asst. Secy that the Case may be adjourned to the 19th (Saturday).

M. 24/2/21

(D) The Coorg Lr. Case is despatched Lr. letter. Why not in Lr? Lr 25/2

Subd.

(E) 7th is a general holiday on account of Sivaratri. Orders are requested as to whether the next day (8th. Tuesday) may be suggested

M. 25/2/21

(F) Yes it may be posted to 8th Lr 25/2

N.B.—Should routine notes be written on small slips, the notes must be copied, or slips pasted on this form.

(6)

1459/1959

Serial No.

been issued & that the hearing has been fixed for Saturday the 5th March 1921 at 2 P.M., before the III Member of Council

25) To the Personal Asst to the III Member of Council with compliments. Please see order of Attorney on the last page.

4959
26.2.21.

26/2

30) The date of hearing has been altered from fresh notices.

To the 19th March

26/2

31) Draft & fair copies of fresh notices announcing the adjournment to the parties & drafts of order to the Taluk Amildar & of letter to the Advocate for the appellants are submd for approval, signature & approval respectively.

26/2

32) Issues
P. M.
28/2

12 To Dasharathi Sah and other Mohomedan Narsimha Rao and other Orders Dtd on 9/1918 Dt 28-2-1921

Issues the notices to the parties to attend before the III member on 19-3-1921

L8111

(78)

I. R. S. III-2]

General and Revenue Secretariat. | Pol File No. 9 of 1920

Serial No. 13

To Sri. C. Narayanaswamy Naidu
Advocate Bangalore City
No G 16819. dt 28-2-1921

States that the hearing has been adjourned to Saturday the 19th march 1921 at 3 P.m. before the III member of Council.

33) These papers will now be sent to the Member's establishment, if approved

SBB 1/3
Asst 1/3

34) yes
D. M. 2/3

35) To the Personal Asst to the III Member, with compts.

Asst 2/3

36) 14th 18th and 19th have just happen to be General Holidays on account of Final Census. Submit for orders as to what date the hearing may be further adjourned

9.3.1921

Asst 9/3

37) In favour of suggesting a suitable date

D.A. to 3rd member) D. M. 9/3

Member's order -

38) The Case may be posted to the 26th inst.

10/3/21

NOTE—Contn. sheet.

18471

G. R. S. III-2]

General and Revenue Secretariat. | Police File No. 9 of 1920.

Serial No.	
39	Fresh notices to the parties, an order to the Trunk Amildar & a letter to the Advocate for the appellants are put up for approval & signature SKR 12/3 12/3 40 Issue D. M. 12/3
14	To Dastagiri and other Mohomdans Veerabhadra Rao and other Hindus Siptur. No 9/14642 dt 12.3.1921 Issues the notices to the parties to appear before the III member on ~~12.3.192~~ 26-3-1921
15	To Sri. K. Narayanaswamy Naidu Advocate Bangalore etc No 9/14643 dt 12.3.1921 States that the hearing has been adjourned to Saturday the 26 the mar. 1921
41	If approved, the file will now be sent to the Member's Establishment. SKR 15/3 42 Put up by Sri Narasimhan D. M. 15/3 2 Approvals by Sri Thanka Rama Rao & Sri Narasimhan Approved. Notice issued VGS 16/3

NOTE.—Contn. sheet.

Serial No.

43 The records clearly show that the Masjid in question is not one of the institutions entitled to the privilege of having music stopped in front of it by processions passing along the high way. It is not one of the institutions which appears in the list of mosques prepared by the Chief Commissioner in 1876 as entitled to the stoppage of music. Its right for such a privilege has been vetoed by the judgment of the Judicial Commissioner in 1871. No doubt the Masjid is not a corporation sole under the Mohammadan Law in the sense that it can sue and be sued and it might be that that judgment is not binding upon all the Mohammadans. But the judgment affords clear evidence of the fact that at the time that judgment was passed the mosque was not in the enjoyment of that right. That it has not enjoyed the right subsequently too is evident by the fact that in 1882, permission to reconstruct the mosque was granted on the express understanding that the Mohammandans would not object to the playing of music in front of it. It is contended that since the order 1882, music has not been played before the mosque and that permission for playing the same should not be granted now. There is no doubt that there is a large body of evidence given by disinterested witnesses which goes to show that Hindu processionists voluntarily refrained from playing music before the mosque. This might be purely from motives of good will and neighbourly feeling towards their fellow citizens but that does not give the right to the Mahommadans to have the music stopped

NOTE—Contn. sheet.

Serial No.

at all times. The enjoyment is not of a sufficient long duration, as to mature into a prescriptive right nor can the Hindus be deprived of their right, because the right being an inherent one it cannot be extinguished by mere non-user. The Masjid in question can be allowed no greater privileges than what all places of worship are entitled to under the law of the land, ~~and this appeal is therefore dismissed.~~ The order passed in G.O. 72, 98 - 9 of this 10th day of the 2nd October 1920 is accordingly confirmed and the Hindus appeal is dismissed.

5/8/22

44 Muse endorse this decision

967/810

DEWAN'S OFFICE.
Recd. on AUG, 10 1922
Reg. No. 976

Dewan

9-8-22

Order. The case is in hand by the Hindus. ~~might~~ Communal tension ~~has~~ ~~might~~ ~~be~~ ~~aroused~~ ~~with~~ ~~the~~ ~~Hindus~~ ~~would~~ ~~be~~ ~~aroused~~ ~~by~~ ~~their~~ ~~not~~ ~~having~~ ~~their~~ ~~rights~~ ~~protected~~ by calling upon the leaders of the Communities to come to a friendly settlement by

A.S. 28-8-22

Draft please

NOTE—Contn. sheet.

G. R. S. III-2]

1841 1-20

General and Revenue Secretariat.	Police File No. 9 of 1920

Serial No.	
	47) Draft order is subd for approval.
1633 5/9/19	48) For perusal of Hon'ble Member before issue. SBB Asst 31/8/19 cur 2/9.
	2nd Hr. Asst.
	49) Put up under in a proper general form & not as in form 7 (as issued to Appellants) with reference &c. Asst 4/9 A S B 6/9 22 cur.
2.45 pm 6/9	50) A typed copy of the order in judicial form is put up. 6/9
1751 8/9	SBB 8/9 Asst 8/9 2nd Member cur 8/9
	51) Appd Asst 9/9 B 9/9/22
23	52) Issue cur Do Mhd Dastagir Sab & other Mohamedan Residents P. 2295 of 16/9/19 Informs them that the Revision petitions filed by them are dismissed for reasons stated.

NOTE.—Contn. sheet.

G R S. III-2]

General and Revenue Secretariat. | Police File No. 99 of 1920

18471-20

(70 (13

Serial No.

To

Mr. Krishna Rao and other Hindu Residents.

P 2296 of 16/9/20

Forwards copy of the above.

To

The District Magistrate, Guntur

P 2297 of 16/9/20

Forwards copy of the above and returns the petitions requesting to arrange to bring the parties to an amicable settlement.

B 1
2740
31

NOTE—Contn. sheet

No. 1300/1

OFFICE OF THE PRIVATE SECRETARY TO
H. H. THE MAHARAJA OF MYSORE.

DATED 18th November 1920.

14

Ref. 19-11-20

DIARY No 10897

Telegram dated 17th November 1920 from Mr. Mahamed Hussen, Secretary, Khilafat Committee, Belgaum, is forwarded with compliments to the Dewan of Mysore, Bangalore, for favour of disposal.

By Order.,

Private Secretary.

P. 3679/1920

POSTS & TELEGRAPHS

OFFICE OF THE PRIVATE SECRETARY
367
18 NOV 1920

NOTICE.
This form must accompany any inquiry made respecting this Telegram

Charges to pay — Office Stamp

H. H. THE MAHARAJ OF MYSORE
MYSORE
17 NOV 20

Received at (Office of Origin) | Date | Hour | Minute | Service Instructions | Words

TO

Recd. here at | H. | M.

To His Highness the
Maharaja of Mysore

We the Musalmans of Belgaum
hear with regret and anger
that the officials at Ujtur
are going to allow the Hindus
to pass in procession by and

N.B.—The name of the Sender, if telegraphed, is written after the text.

Rai Chand & Sons—2879—30-6-19—1,40,000 Blks. (Edn. IV)

G. R. S. III-2]

1561

General and Revenue Secretariat. | File No. | of 19

Serial No.

~~Vide orders on the linked file~~.

POSTS TELEGRAPHS.

NOTICE.

This form must accompany any inquiry made respecting this Telegram.

Charges to pay	
Rs.	As.

Office Stamp: MYSORE 17 NO 20

Handed in at (Office of Origin)	Date	Hour	Minute.	Service Instructions	Words

TO and

Rec'd here at | H. | M.

settle the matters immediately amicably

= Mahomed Hussen secretary Khilafat Committee Belgaum.

N.B.—The name of the Sender, if telegraphed, is written after the text.

Rel Chand & Sons—2539—30-9-19—1,40,000 Blks. (Edn. IV)

NOTE—Contn. sheet.

POSTS TELEGRAPHS.

NOTICE.
This form must accompany any inquiry made respecting this Telegram.

Charges to pay	
Rs.	As.

Office Stamp: CALICUT 17 NO 20 T.O.

Handed in at (Office of Origin)	Date	Hour	Minute.	Service Instructions.	Words

TO and (2)

Read here at ... H. ... M.

near the mosque which is against our religion & so there could surely be unforseen unhappy disturbances between hindus and muslims we request to interfere in the matter and.

N.B.—The name of the Sender, if telegraphed, is written after the text.

Bal Chand & Sons—2526—30-6-19—1,40,000 Bks. (Edn. IV)

G. R. S. VI—G/32]

SUBJECT.....

Diary No. of letter replied to 10897

Section Police

File No. 9—20

Serial No. 2

General and Revenue Secretariat

(Police)

, the 191 .

Date of issue

Signed by

To

Dear Sir,

I am desired to forward herewith copy of a telegram d/ 17.11.20 received from Mr Mahomed Hussen Secretary Khilafat Committee, Belgaum, regarding the

over.

cy.

~~Letter allowing~~
- praying of
Hindu processions ~~to pass~~
by them the Mosque at Tipkur and to
~~have and write to~~

request that a report
in the matter may
be kindly submitted
for the information
of Govt at an early
early date.

The matter may be kindly
treated as very urgent

Yours Sincerely

List of enclosures.

Copied by

Examined by

Anonymous. purporting to be from the Malnadans of Tipturtaluk

It is stated that the Malnadans will not ... even at the risk of their lives, allow the Hindus to go ... before their mosque with music, band etc playing.

SECTT. PDB. 19
9-20
Date of Receipt 13/11/20
Petn. Regr. No 26

Chief Secy.

B.O.

13.11.20

Bo.

22.11.20

14 NOV 20

13.11.20

CONFIDENTIAL

Tumkur District,

Dated Tumkur, the 1st December 1920.

12259

From

Ananda Rao Sirsi, Esquire, B.A., LL.B.,

District Magistrate, Tumkur District.

Pol
9-20
5

To

C.S. Balasundaram Iyer, Esquire, B.A.,

Chief Secretary to the Government of His Highness

the Maharaja of Mysore, BANGALORE.

Sir,

With reference to your D.O.No.G.10190 Pol. 9-20-2 dated the 23rd November 1920 calling for a report in the matter of the passing of Hindu processions by and near the mosque at Tiptur, I have the honor to state as follows:-

2. The mosque in question is by the side behind some shops - with a way (lane) leading to it on the High road - the only main - road for processions at Tiptur. It has been held that the mosque was nothing more than an Ashurkhana subsequently converted into a Masjid and the right of Hindus to pass in processions on the high road by the side of it with music playing has been declared by the Judicial Commissioner in his Judgment in Special Appeal Suit No.14 of 1871. This appeal was by the Mohamadans of Tiptur and it was held that they had entirely failed to prove that they possessed any recognised right to put a stop to the playing of music on the high-way or that there was any real usage having the force or authority of law which prohibited the use of music along a highway when such highway passed the neighbourhood of a mosque. Further development and expansion of the Masjid is narrated in detail by the Deputy Commissioner Khan B.Mahomed Ali in his order dated 29th June 1883.

3. In December last, while the peace celebrations were about to be conducted at Tiptur, as in other places, it was learnt that the Mohamadans of the place raised objections to the procession passing in front of the mosque with music and band. On the matter being - brought

1920-21.

From

The District Magistrate,

Tumkur District, Tumkur.

To

The Chief Secretary to the
Government of His Highness
the Maharaja of Mysore,
Bangalore.

Dated Tumkur, the 30th November 1920

Despatched 4. 12. 1920

Received

General No. C. 302
No. 1920-1921

Enclosure No. 5 Nil

Reporting in the matter of passing of Hindu Processions by and near the mosque at Tiptur.

*****

22

brought to the notice of this office, the same was reported to Government who in their Order No.14977-8/Police 108-19-2 dated the 3rd January 1920 observed that it was not necessary to require the procession to be conducted on another date, seeing that the time for celebrating it had already passed. Finally the Government passed their Proceedings on 2nd October 1920 observing that the Judicial Commissioner has distinctly held in his Judgment in Special Appeal suit No.14 of 1871 that "there is no proof that the mosque in question possessed any recognised right to put a stop to the playing of music on the highway in front of it, that further in the list of institutions entitled to stoppage of music by procession passing in front of them prepared in 1876, the Deputy Commissioner of the time has held that it is not necessary to confer that privilege on the mosque in question and that the objections raised by the Mohamadans are therefore untenable." The matter seems also to have been settled by compromise between the Hindus and Mohamadans, the latter binding themselves not to raise any objection to the passing of any procession with music on the main road by the side of the masjid, so long back as in 1883, vide aforesaid order of the Deputy Commissioner Khan B.Mahomed Ali. A plan showing the position of the Masjid and the situation of Basavanna's temple and the main road is herewith sent. As the Masjid is in the midst of the Hindu houses and by the side of the Hindu temple separated only by a wall it is inevitable that there should be noise, music, bhajana and procession whenever any worship takes place in the Basavanna's temple which is known to be the oldest institution in the Town or whenever any marriage or other auspicious or inauspecious ceremonies take place in the house of the Hindu families situated by the side and in the neighbourhood of the mosque surrounding the same.

4. In the above circumstances and seeing that the matter is not settled by compromise and by the decision of the highest Tribunal in the State, I am of opinion that the Musalmans of Tiptur have no real grievance to be redressed.

5. Copies of the order passed by the then Deputy Commissioner Khan Bahadur, Mahomed Ali dated 29th June 1883 and judgment of

the Judicial Commissioner in Special Appeal Suit No.14 of 1871 ~~are~~ x-are enclosed for ready reference.

I have the honor to be,

Sir,

Your most obedient servant,

Amandsw. Lewis.

District Magistrate,
Tumkur District.

SKY.

Insa

ORDER. we. 5 & 15 [24]

1. The Mahomedans of Tiptur having pulled down their old Masjid commenced to rebuild the same, but the Lingayats of the place rising objection and complaining against the construction to the Deputy Commissioner it was ordered that the rebuilding of the Masjid be discontinued until further orders.

2. I personally inspected the locality and found that the said Masjid is situated in the neighbourhood of the Basavannas temple in the "Halepeth" of Tiptur, and a piece of Government waste land measuring about 18 yards east to west and about 15 yards north to south forms the compound of the both places of worship as well as that of one Huchanna and Chickkanna Shetty's shops to the west of the Davastans and it was very evident that the said both religious buildings being within eight 8 yards from each other and the said open ground being considered the common compound of the said buildings the contesting factions have had an opportunity of raising objections, and opposing each other when religious ceremonies were performed in their respective places of worship during the last 15 or 16 years.

3. However I am glad to observe that the both contending parties amicably settled their dispute, and arrived at the following mutual understanding that the Lingayats will have no objection to the Mahomedans reconstructing their Masjid as proposed by them, to build it upon the foundation already laid by them, and having their own entrance through the open land in front of the 2 shops of the Lingayats mentioned in Para II, that they will give the said 2 shops gratis to the Mahomedans if they purchase the front vacant land from the Government and that they (Lingayats) willbuild a wall between this and the land in front of the Basavanna's temple and have its entrance through the said land if it be sold to them by the Government.

4. The Mahomedans having fully agreed to the proposals gave their statement to the effect that they will have no objection

objection whatever if the Lingayats perform their religious ceremonies with music etc., in the Basavanna's temple or in its compound provided that the Government land in front of Huchanna's and Chikkanna's shops be sold to them by the Government for the purpose of enclosing it as the compound of their Masjid and aldo to build a Musaferkhana to the west of the wall proposed by the Lingayats - to be built between the 2 compounds.

5. The Mahomedans have also executed a distinct agreement under the Chief Commissioner's Proceedings No.837-44/13 dated the 6th May 1881 to the effect that they will have no objection whatever if - processions, with music will pass by the high way or by the neighbourhood of the Masjid.

6. As no effects could be given to the amicable settlement as - above alluded to, unless the said vacant piece of Government land - be sold to the contending parties for the sake of having their own enclosures and entrances separate from each other as proposed by - them, and as this long standing and very unpleasant dispute could - not have been settled in such a satisfactory way without acccpting their applications for the said grounds the said land was sold to them separately showing distinctly the measurement and the boundaries of each piece of land for the purposes mentioned above vide order 146 dated 19th June 1883.

7. I having accepted and confirmed the amicable settlement mad by the Lingayats and Mahomedans about the re-building of the Masji as enumerated in paras III and IV, I direct that the Mahomedans may proceed with the re-construction of their Masjic upon the - foundation they have already laid down so as to have the building - a few yard further back to the west of the old Masjid and still - remoter from the compound of the Basavanna's temple.

8. The Amildar of the Tiptur Taluk is directed that he should

3

(26

should pay particular attention that the parties concerned carry out the above order of the time of constructing the - Masjid, Musafer-khana by the Mahomedans and a wall between as agreed by the Lingayats to avoid further dispute and disagreement between them.

This 20 day of June 1883.

Sd/- Mahomed Ali,

Offg: Deputy Commissioner,
Tumkur District.

****

* COPY *

Ameersiw Khan

District Magistrate,
Tumkur District.

SKY.

Sup 1545 (27)

In the court of the Judicial Commissioner of Mysore, Bangalore, Tuesday the 25thday of April 1871.

Before R.D. Mangles Esquire V.C. , Officiating Judicial Commissioner .

Special appeal suit no.14 of 1871 against the decision of the Superintendent of the Nandidroog Division in appeal suit no.69 of 1870.

Defendants specialAppellants.

1. Mahamad Hayath. 2. Husansab. 3.Juggdo saheb 4.Buddoo 5. Mastan sab. 6. Buddoo 7. Thambo sab. 8. Peer sab. 9.Bavasab. 10.Mahmadkhan 11. Mahamad hayath. 12. Buddoo. 13. Bangadeali sahib. 14 Thodda Hyder sab 15. Chikka Hyder sab.

Plaintiff Special Respondent.

Putta Hallappa Setty

JUDGMENT.

This suit was originally laid in the court of the Judicial Assistant of the Tumkur District. The plaintiff Putta Hallappa sued the defendent Mahamad Hayath and others for damages assessed at Rs.355/-odd, on account of losses occassioned by the defendents having obstructed him and others, while engaged in a ceremonial and musical procession. The court of first instance disallowed plaintiff's claim for damages, but decreed that he was entitled to pass along the highway using music and in procession near the defendent's mosque, provided he did not among his fellow subjects or provoke a breach of the peace. Both parties objected before the lower appellate court. The plaintiff, on the ground that he was entitled to damages, and the defendents generally but more especially in regarding to th finding of the lower court that no usage having the force of law existed prohibiting the playing of music on the high way before the mosque. The lower appellate court gave the plaintiff damages, amounting to Rs.20/-but dismissed the defendent's appeal with all costs in both courts, upholding the finding of the lower court as to the absence of any good foundation for such usage as had been contended for by theDefendents. Both parties have again raised objections before this court. There are seve al

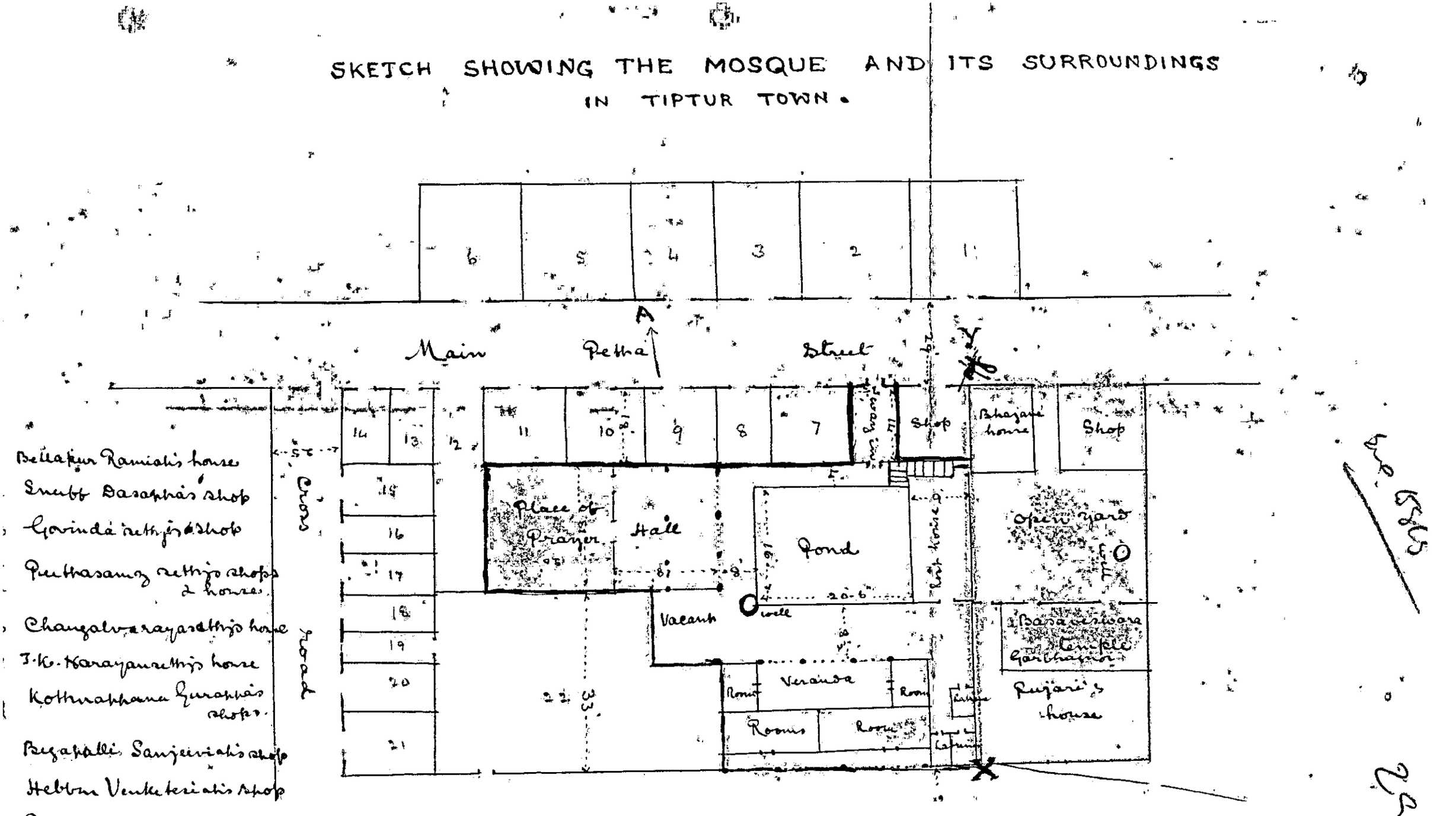
several grounds of objections stated in the pitition of appeal presented by the defendents but their pleader Mr. Wright, has confined his arguments to one point only viz. that the lower courts have incorrectly decided that no such usage exists as contended for by the defendents. The plaintiff objects to the finding of the lower court as to the question of the damages sustained by him, declaring that the sum awarded is insignificant and insufficient. The whole of the evidence taken in this case has been attentively perused, and especially the evidence of the witness referred to by Mr. Wright. From the general tenor of this evidence it would appear that the road along which the plaintiff was passing the procession and playing music was a high road; that near this high road a building is situated which has been used as a mosque for the past 8 or ten years and that during the past 5 or 6 years the Mahamadans of the place who own this mosque have on several occassions prevented persons from playing music while passing the masque. But it is to be observed that the defendents have entirely fialed to prove that they possessed any recognized right to put a stop to the playing of music on the high way or that there is any real usage in existence having the force or authority of law which prohibits the use of music along a high way when such high way passes the neighbourhood of a mosque. The court would require very strong evidence in support of any such usage as has been contended for and certainly such evidence has not been adduced in the present case. As regards the objection on the part of the plaintiff that the damages awarded are insufficient it is to be observed that this is a pure question of fact for the determination of the lower court. However the evidence has been carefully persued and under all the circumstances, I fail to find any good or sufficient reason for interfering with the orders passed. The appeal is therefore dismissed. Each party will bear their own costs in the court.

(SD) R.D. Mangles.

"COPY"

District Magistrate,
Tumkur District.

SKETCH SHOWING THE MOSQUE AND ITS SURROUNDINGS IN TIPTUR TOWN.

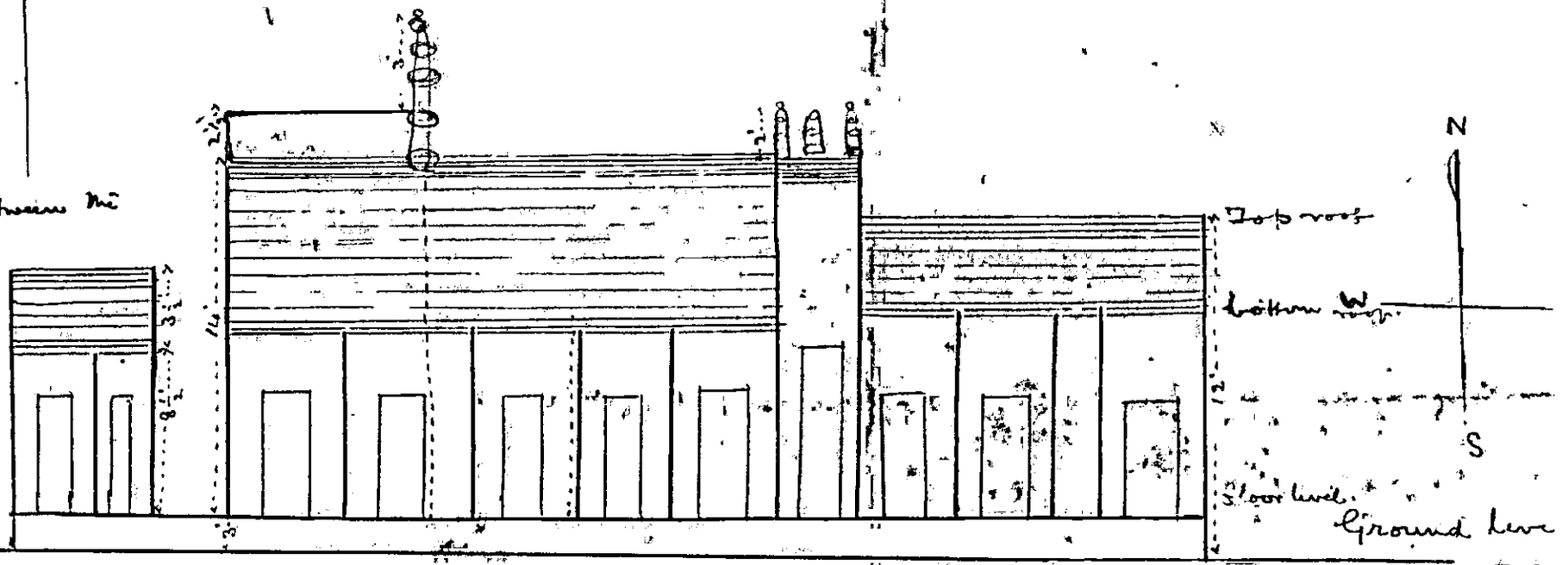


15 Siddavaham Ramaswamy's shop
16 Begepalli Ramiah's shop
17 Kunta Chamiah's shop
18 Siddoji Rao's shop
19 Do house (waqf in)
20 + 21 Kari Basappa's shops
22 Siddoji Rao's house

N.B. A B is the common wall between the masjed and Basaveswara temple it is 11 3/4 high.

The portion coloured red is the masjid and its premises.

The portion coloured blue is Basaveswara temple & its premises.



Elevation of the shops and masjid as viewed from the point A. towards the South.

Drawn by
D Ananthiah
" Sanitary Inspector
Tiptur Taluk.
2. 12. 1920.

Examined & Verified
Dept Tahsildar
3 12/20.

H. C. Subba Rao
2.12.20
Amildar.
Tiptur Taluk

ಕೆ 16275-(2)ಎ 17/2 ನೋಟೀಸ್. P.R. 9-20-9

ಮೈಸೂರು ಸಂಸ್ಥಾನದ ಶ್ರೀಮನ್ ಮಹಾರಾಜರವರ ಗೌರ್ನಮೆಂಟ್ ಜನರಲ್ ಮತ್ತು ರೆವಿನ್ಯೂ ಸೆಕ್ರೆಟರಿಯವರ ಕಚೇರಿಯಿಂದ.

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192 0—192 1 ನೇ ಇಸವಿ ~~ರೆವಿನ್ಯೂ~~ ಅಪೀಲು ನಂಬರು.....

ಅಪೀಲು ವಾದಿ

ತಿಪ್ಪೂರು ಗ್ರಾಮಸ್ಥರು ವರ್ಸಸ್ ಇನ್ನೂರು ಜನ ಪ್ರತಿವಾದಿಗಳು.

ಅಪೀಲು ಪ್ರತಿವಾದಿ

ತಿಪ್ಪೂರು ಗ್ರಾಮಸ್ಥರು ವರ್ಸಸ್ ಇನ್ನೂರು ಜನ ಪ್ರತಿವಾದಿಗಳು.

ವಿಷಯ.

ಮಳೆ ಇಲ್ಲದೆ ಬೆಳೆ ಹಾಳಾದ ಕಾರಣ ಸಾರಾಸರಿ ಆಣ್ಣೆಯನ್ನು ತೆಗೆದು ಕೊಂಡು ಕೊಡುವ ವಿಚಾರದ ಕುರಿತು

ಮೇಲಿಕಂಡ ಅಪೀಲು ವಾದಿ ಮತ್ತು ಪ್ರತಿವಾದಿಗಳಿಗೆ

~~ಅಪೀಲು ವಾದಿ~~ 1920 ನೇ ಅಕ್ಟೋಬರ್ ತಿಂಗಳ 27 ನೇ ತಾರೀಖಿನಲ್ಲಿ ಆಗಿರುವ ~~ರೆವಿನ್ಯೂ~~ ಡಿಸ್ಟ್ರಿಕ್ಟ್ ಡೆಪ್ಯುಟಿ ಕಮಿಷನರವರ ಹುಕುಮಿನ ಮೇಲೆ ದಾಖಲುಮಾಡಿ ಇರುವ ಅಪೀಲು 1921 ನೇ ಇಸವಿ ಮಾರ್ಚ್ 5 ನೇ ತಾರೀಖಿನ ದಿವಸ ಶನಿವಾರ ಮೊಕ್ಕಾಮಿನಲ್ಲಿ ವಿಚಾರಣೆ ಮಾಡಲ್ಪಡುವುದರಿಂದ, ಆ ದಿವಸ ~~ಮಧ್ಯಾಹ್ನ~~ 3 ಘಂಟೆಗೆ ನೀವು ~~ಈ~~ ಕಚೇರಿಗೆ ಹಾಜರಾಗಬೇಕು.

ಬೆಂಗಳೂರು 16 ನೇ ಮೊಹರ್ ಫೆಬ್ರವರಿ 1921 ನೇ ಇಸವಿ

ಸೂಕ್ತಾಂ

By Order,

~~For~~ Secretary to Govt.
Rev Dept.

WD 1884—GPB—1,500—16-2-20

15 ಕಾಪಿ

G. R. S. VI—G/32]

SUBJECT.....

.....

.....

Diary No. of letter replied to 12459

Section Police

File No.

Serial No. 91

General and Revenue Secretariat

(Police)

No. 16552

, *the* *191*

Date of issue 23/2

Signed by

Esq B.A, B.L

Advocate

Bangalore city

Sir

With reference to the review petition d/ 19.11.19 regarding the passing processions in front of the Masjid at Tipture pres on behalf of Dastag

over.

Sub & other Mahomedan
residents of Tiptur versus
Krishna Rao & other
Hindu residents of Tiptur,
I am directed to State
that notices for the
appearance of the
appellants and res-
pondents have been issued
from this office and
that the hearing has
been fixed for Saturday
the 5th March 1921
at 3 P.M. before the
III Member of Council

List of enclosures.

Copied by

Examined by

180/S-
Police 9-20-11

To

Rajaseva Dhureena Sirdar

M. Kantharaja Urs, Esq., B.A., C S.I.,

Dewan of Mysore, Bangalore.

Most Respected Sir,

We the undersigned residents of Tiptur and other surrounding places, most respectfully beg to submit the following to your gracious consideration and protection as well as to restore peace and order.

1. There were about 3 temples in the Tiptur Taluk in which Utsavam &c., were being conducted from time immemorial. On such occasions, as a matter of fact, the cessation of Music &c., before the Mosques of the Mohammadans of the place was also observed without any kind of objection in the best interests of the our Mutual Religions, peace and order.

2. That about 8 - 9 years ago certain other temples or Bhajane Mandirams were brought into existence by some of the Hindus.

3. That a few number of people actuated by selfish motives and bad council, have been moving earth and heaven to create ill-feelings between the Mohammadans and Hindus, inspite of various kinds of protests, negotiations &c. On the other hand that small party has also been doing things quite contrary to the existing principles and Mamul just to further their mischievious object.

4. We are very much afraid that the cordial feelings, now existing cannot be continued any longer between the -

Mussalmans and Hindus in the place, since matters have gone too far to control by any ordinary person.

5. We being the most loyal and devoted Subjects of Our Gracious Highness, we feel it our duty bound to lead a peaceful life throughout. The present attitude of the said minority of Hindus, is sure to bring, and it has already brought to a great extent, rupture between the said two communities to the discredit of both the communities and to greatest prejudice of Law and Order.

6. As stated in para 4 supra, and for those reasons, until and unless Your Nobleself takes up the trouble to go to Tiptur immediately, make personal enquiries and bind over the mischief mongers or pass any order that your honor may deem fit in the matter of maintaining the peace and order in the place, we are unable to measure the consequences at present. As a matter of fact we never want to discard or disregard the religious feelings of any community.

7. We once again most respectfully pray that a personal inspection and enquiry be made on the sopt and save us from unforeseen disaster. Since the feelings have gone up too high, we pray for immediate actions. Herewith we have submitted the Kanada petition attested by most influential and respectable people of the place for reference. No doubt the matter is too plain and simple, but it has been driven to this extent for selfish and personal ends of certain ill-advised and hot headed people

We beg to remain

Your most obedient & humble servants,

Sd. 1. Tiptur Majehalli Basavegowda

(35

2. Goruvagondanahalli Patel Range Gowda.
3. Chenne Gowda.
4. Shivananje Gowda.
5. Kalle Gowda.
6. Hogannagattada Kare Gowda
7. Goruvagondanahalli Thimme Gowda.
8. Patel Kade Gowda.
9. Nanje Gowda.
10. Tiptur Basavalinge Gowda.
11. Tiptur Mahalingappa.
12. Koppada Thimme Gowda.
13. Koppada Patel Range Gowda.
14. Hindisigere Sanna Nanje Gowda.
15. Echalur Nanje Gowda.
16. Beladanahalli Rame Gowda.
17. Kallegowdanapalyada Basave gowda.
18. Koppada Putta Malle Gowda.
19. Keregode Dodda Shankare Gowda.
20. Anugondanahalli Patel Linge Gowda.
21. Anugondanahalli Linge Gowda.
22. Bandihalli Vanagiri Gowda.
23. Tiptur Kalle Gowda.
24. Echalur Chikka Honne Gowda.
25. Indidigere Hule Gowda.
26. Madihalli Siddarame Gowda.
27. Hosahalli Patel Linge Gowda.
28. Yedagarahalli Sombe Gowda.
29. Kachegattada Chenna Basave Gowda.
30. Thadasur Basave Linge Gowda.

and others.

29-1-1921

1.

2.

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4

5

ನೋಟಿಸ್.

ಮೈಸೂರು ಸಂಸ್ಥಾನದ ಶ್ರೀಮೆ ಮಹಾರಾಜರವರ ಗೌರ್ನ ಮೆಂಟ್ ಜನರಲ್ ಮತ್ತು ರೆವಿನ್ಯೂ
ಸೆಕ್ರೆಟರಿಯವರ ಕಚೇರಿಯಿಂದ.

1920 —1921 ನೆ ಇಸವಿ ~~ಮುಜರಾಯಿ~~ ಅಪೀಲು ನಂಬರು.....

ಅಪೀಲು ವಾದಿ

ಅಪೀಲು ಪ್ರತಿವಾದಿ

ವಿಷಯ.

ಮೇಲೆಕಂಡ ಅಪೀಲುವಾದಿ ನಿಮ್ಮ ಮೇಲೆ ಪ್ರತಿವಾದಿಗಳಲ್ಲಿ
1911 ನೆ ಅಕ್ಟೋಬರ್ ಒಳಗೆ ಕಾರ್ಯಸಾಧ್ಯವಾಗುವಂತೆ ಕಾಲಾವಧಿ/ಹೊಂದಿಗೆ
108-14 ನೆ ನಂಬರಿನ
~~ನೀವು ಡಿಸ್ಟ್ರಿಕ್ಟ್ ಡೆಪ್ಯೂಟಿ ಕಮಿಷನರವರೆ ಹುಕುಮಿನ ಮೇಲೆ ಹುಜೂರಿಗೆ~~
ಗುಜರಾಯಿಸಿದ 1920 ನೆ ಇಸವಿನವಂಬರ್ ಮೊಹಿ 19 ನೆ ಮೆರುಕುಮಿನ ಅಪೀಲು ಅರ್ಜಿಯು
1921 ನೆ ಇಸವಿ ಜನವರಿ 19 ನೆ ತಾರೀಖಿನ ದಿವಸ ಶನಿವಾರಮೊಕ್ಕಾಮಿನೆಲ್ಲಿ
ವಿಚಾರಣೆ ಮಾಡಲ್ಪಡುವೆದ್ದರಿಂದ, ಆ ದಿವಸ ~~ಪೂರ್ವಾಹ್ನ~~ ಅಪರಾಹ್ನ 3 ಘಂಟೆಗೆ ನೀವು ಈ ಕಚೇರಿಗೆ ಹಾಜರಾಗ
ಬೇಕು.

ಬ॥ತಾರೀಖು 26 ನೆ ಮಾಹೆ ಕೈ ಪ್ರ ವ ರಿ 1921

ನೆ ಇಸವಿ, ಮೊಕ್ಕಾಂ ಬೆಂಗಳೂರು.

By Order,

Secretary to Government,
~~Gen. &~~ Rev. Departments.

To No 270/Cus 2. 18471 Tipturtaluk Office. 27.2.21

Reference No 16.275(2)-Pol 9-20-9 dated 17th February 1921 from the Secretary to Government, General and Revenue Depts. forwarding for service notices in duplicate for the appearance of Mr. Dastagiri Saheb and other Mussalman inhabitants of Tiptur Town and Krishna Rao and other Hindus of the same place, before Government on the 5th March 1921 in connection with an appeal in regard to the passing of processions in front of the Masjid with music in Tiptur.

(40)

Ch Secy 28 FEB 1921

5519

Returned after Service on the principal inhabitants of Tiptur (Mussalmans and Hindus).

A.C. Subba Rao
27.2.21
Asst to
Tiptur Taluk

To the Secretary to Government
General and Revenue Departments,
Bangalore

Police Branch

Cus 270/2 - Subd

The enclosures received with the above will be placed in the file. Fresh notices postponing the hearing to the 19th inst- were issued yesterday

1/3

1/3

2/3

(41

ಮೈಸೂರು ಸಂಸ್ಥಾನದ ಶ್ರೀಮಂ ಮಹಾರಾಜರವರ ಗೌರ್ನಮೆಂಟ್ ಜನರಲ್ ಮತ್ತು ರೆವಿನ್ಯೂ
ಸೆಕ್ರೆಟರಿಯವರ ಕಚೇರಿಯಿಂದ.

ನಂಬರ್. 16275(2)
Pl 9.20.9.

ಶಿರಸಿ ತಾಲ್ಲೂಕು ಅಮಲ್ದಾರ್ರಿಗೆ ಬರಸಿ

ಕಳುಹಿಸಿದ ನಿರೂಪ ಅದಾಗಿ—

ಇಲ್ಲಿನ ಸಂ 1920—1921 ನೆ ಇಸವಿ ~~ಕೊನೆಯ~~ ಆಪೀಲ್ ~~ನೇ ನಂಬರು~~

ವಾದಿಗಳು
ತಿಳಿಯಲು ಬರುವವರು
ದಕ್ಷಿಣ ಜಿಲ್ಲಾ ಜಾಸ್ತಿ
ಇತರ ಇಬ್ಬರಲ್ಲಾಪೇಕ್ಷಾವಾದಿಗಳು
ಪ್ರತಿವಾದಿಗಳು
ಕೆಳಗೆ ಬರೆದ ನಮೂನೆಯ ಕ್ಷಿಕಾರರು
ಮತ್ತು ಇತರ ಹಿಂದುಳಿದವರು

ಮೊಕದ್ದಮೆಯು ಕಕ್ಷಿಗಾರರು ಮಾರ್ಜಿನ್ನಲ್ಲಿ ನಮೂದಾದವರ
ಹೆಸರಿಗೆ ತಯಾರಾದ ನೋಟೀಸುಗಳನ್ನೆ ಇದರ ಹಮರಹಾ

ಕಳುಹಿಸಿರುತ್ತೆ. ಕ್ರಮ ಪ್ರಕಾರ ಜಾರಿಯಿಂದ ಅಸಲ್ ನೋಟೀಸುಗಳನ್ನ ಕೂಡ್ಲೆ ಈ ಆಫೀಸಿಗೆ ವಾಪಸ್
ಕಳುಹಿಸತಕ್ಕದ್ದು.

18.2.21

ಬ ತಾರೀಖು 16 ನೆ ಮಾಹೆ ಫೆಬ್ರವರಿ 1921 ನೆ

ಸಂದ 263/2

AK 10162 18.2.21 HM

ಇಸವಿ, ದರ ಜಾಗಾ ಶಿರಸಿ ತಾಲ್ಲೂಕು

By Order

Forwarded to the Police Inspector, Sirsi Taluk for service and return today.

A.C. Mobar 18.2.21

Amildar

Mahadevappa
for Secretary to Government,
~~Gen. & Rev. Departments.~~

ಜಾರಿ ಬಾಕಿಗೆ

~~ಇನ್ಸ್‌ಪೆಕ್ಟರ್ ಸಬ್‌ಇನ್ಸ್‌ಪೆಕ್ಟರ್ ಅಸಿಸ್ಟೆಂಟ್ ಸಬ್‌ಇನ್ಸ್‌ಪೆಕ್ಟರ್~~

ಮಾದ್ಯ ಜಾರಿ ವರ್ಷಕ್ಕೆ ದ ಬಾಕಿಗೆ ಠೀಸಾರಿ ಪೇಕ್ಷಾವಾದಿ

ಪ್ರತಿವಾದಿಗಳ ಹಾಜರಿಯಲ್ಲಿ ಜಾರಿ ಮಾಡಿದ್ದು ಸರಿಯಾಗಿ ಜಾರಿಯಾಗಿದೆ

GTB—1,000—235-11

19.2.21

K. Lingappa

2. Doddanallappa

K. Thimmappa

N. Papamma

G. Ramanjaneya

K. Chinnabrahmaiah

Submitted

27/2/21

(43

ನೋಟೀಸ್.

ಮೈಸೂರು ಸಂಸ್ಥಾನದ ಶ್ರೀಮನ್ ಮಹಾರಾಜರವರ ಗೌರ್ನಮೆಂಟ್ ಜನರಲ್ ಮತ್ತು ರೆವಿನ್ಯೂ ಸೆಕ್ರೆಟೆರಿಯವರ ಕಚೇರಿಯಿಂದ.

1920 —1921 ನೇ ಇಸವಿ ~~ಮಿನಿಮ್ಯೂ~~ ಅಪೀಲು ನಂಬರು.....

ಅಪೀಲು ವಾದಿಗಳು

ತಿರುಮಕೂಡಲು ನರಸೀಪುರ
ದಫೇದಾರರಾದ ತುಕ್ಕಯ್ಯ
ಇತರ ಮುನಿಸಿಪಲ್ ನಿವಾಸಿಗಳು

ಅಪೀಲು ಪ್ರತಿವಾದಿಗಳು

ತಿರುಮಕೂಡಲು ನರಸೀಪುರ
ಕೃಷ್ಣಶೆಟ್ಟರ ತುಕ್ಕ
ಇತರ ಹಿಂದೂ ನಿವಾಸಿಗಳು

ವಿಷಯ.

ಮುನಿಸಿಪಲ್ ಮುಂಭಾಗದಲ್ಲಿ ಮೆರವಣಿಗೆಯನ್ನು
ತಡೆದು ಹೊಂಡಿರುವ ಪೋಲೀಸರ ಆಕ್ಷೇಪದ ವಿಷಯದಲ್ಲಿ

ಮೇಲೆಕಂಡ ಅಪೀಲು ಕಾಂ ಮಾಡಿಕೊಳ್ಳಿಕೆ ಗೆ

~~ಅಪೀಲು ಮಾಡಿ~~ 1920 ನೇ ಅಕ್ಟೋಬರ್ ತಿಂಗಳ ಕೌನ್ಸಿಲ್ ಕೋರ್ಟಿನ
ಪ.ಪ್ರ.98-9/ಕೌಲ್ಕಚೆ-18-19-5 ನೇ ನಂಬರು
~~ಮಿನಿಮ್ಯೂ~~
~~ಡಿಪ್ಯುಟಿ ಕಮಿಷನರವರ~~ ಹುಕುಮಿನ ಮೇಲೆ ದಾಖಲುಮಾಡಿ ಇರುವ
ಅಪೀಲು(1921 ನೇ ಇಸವಿ ಮಾರ್ಚ್ 5 ನೇ ತಾರೀಖಿನ ಉಹೆ ಶನಿವಾರದಿಂದು
ಮೊಕ್ಕಾಮಿನಲ್ಲಿ ವಿಚಾರಣೆ ಮಾಡಲ್ಪಡುವುದರಿಂದ, ಆ ದಿವಸ ~~ಪೂರ್ವಾಹ್ನ~~ 3 ಘಂಟೆಗೆ ನೀವು ಈ ಅದಾಲತ್
ಕಚೇರಿಗೆ ಹಾಜರಾಗಬೇಕು.

ಬತಾವೀಜು 16 ನೇ ಮೊಹರ್ ಫೆಬ್ರವರಿ 1921 ನೇ ಇಸವಿ

ಮೊಕ್ಕಾಂ ಬೆಂಗಳೂರು

By Order,

DMahadwaiya
for Secretary to Govt.
Rev Dept.

WD 1884—GPB—1,500—16-2-20

Signatures are in the name of the Secretary to Govt. Rev Dept. on the back of the covering memo. Hes 21.2.21

G.R.S. VI—G/32]

(44.

SUBJECT.....

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Diary No. of letter replied to 12459

General and Revenue Secretariat
(Police).
, the 191 .

Date of issue 28/2

Signed by M. Pm

Section Police
File No. 9—20
Serial No. 13

No. G 1689

To

C. Narayanaswamy Naidu
Esq., B.A., B.L.,
Advocate,
Bangalore City

Sir,

In continuation of this office letter No G 1655 Police 9—20—10 d/ 23rd Feby 1921, regarding the question of processions in front of the Masjidat Tipthur, I am directed to state that the

over.

hearing has been adjourned
to Saturday the 19th
March 1921 at 3. P.M.
before the III Member
of Council

I have &c

D

28/

For Rev Secy

List of enclosures.

Copied by

Examined by

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ನೋಟಿಸ್. 1767(2) ಸಂ.ಆ ೧-೨೦-೨೬-

07/3/21

ಮೈಸೂರು ಸಂಸ್ಥಾನದ ಶ್ರೀಮತ್ ಮಹಾರಾಜರವರ ಗವರ್ನ್‌ಮೆಂಟ್ ಜನರಲ್ ಮತ್ತು ರೆವಿನ್ಯೂ ಸೆಕ್ರೆಟರಿಯವರ ಕಚೇರಿಯಿಂದ.

1910 —1911 ನೆ ಇಸವಿ ಜೂಜಕಾಯ್ದೆ ಅಪೀಲು ನಂಬರು .....

ಅಪೀಲು ವಾದಿ ಸಕ್ಕಾರ

ಅಪೀಲು ಪ್ರತಿವಾದಿ ಸಕ್ಕಾರ

ವಿಷಯ.

ಮೇಲೆಕಂಡ ಅಪೀಲುವಾದಿ ಸಕ್ಕಾರದವರ ಅರ್ಜಿಯು 1910 ನೆ ಇಸವಿ ಜೂಲೈ ತಿಂಗಳ 18-19-ನೇ ತಾರೀಖಿನ ಸಿ. 7278-91 ನೆ ನಂಬರಿನ ಹುಕುಮಿನ ಮೇಲೆ ಹುಜೂರಿಗೆ ~~ದಿವ್ಯಾಜ್ಞೆ ಡಿಸ್ಮಿಸ್ ಕವಿಾಷನವಾದ~~ ಹುಕುಮಿನ ಮೇಲೆ ಹುಜೂರಿಗೆ ಗುಜರಾಯಿಸಿದ 1910 ನೆ ಇಸವಿ ನವಂಬರ್ 17 ನೆ ಮೆರುಕುಮಿನ ಅಪೀಲು ಅರ್ಜಿಯು 1911 ನೆ ಇಸವಿ ಮಾರ್ಚ್ 26 ನೆ ತಾರೀಖಿನ ದಿವಸ ಶನಿವಾರ ಬೆಳಿಗ್ಗೆ ಕೊಕ್ಕಾಮಿನಲ್ಲಿ ವಿಚಾರಣೆ ಮಾಡಲ್ಪಡುವದ್ದರಿಂದ, ಆ ದಿವಸ ~~ಪೂರ್ವಾಹ್ನ~~ 10 ಗಂಟೆಗೆ ನೀವು ಈ ಕಚೇರಿಗೆ ಹಾಜರಾಗಬೇಕು.

ಇ ತಾರೀಖು 12 ನೆ ಮಾಹೆ ಮಾರ್ಚ್ 1911

ನೆ ಇಸವಿ, ಮೊಕ್ಕಾಂ ಬೆಂಗಳೂರು.

By Order,

for Secretary to Government,
~~Genl.~~ Rev. Department.

12/3

GPB—1,000—10-11

G. R. S. VI—G/32]

(47)

SUBJECT.....

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Diary No. of letter replied to 1847

General and Revenue Secretariat
(Police)
, the 191 .

Date of issue 12/5

Signed by

Section Police
File No. 9—20
Serial No. 15

No. G 17693

To C. Narayanaswamy Naid
Esqr., B.A., B.L.,
Advocate,
Bangalore City

Sir,

In continuation of this office letter No. G. 16819 / Police 9—20—13 dy 28th Feby 1921, regarding the question of processions in front of the Masjid at Tipturu, I am

over.

(8)

directed to state that the hearing has been adjourned to Saturday the 26th March 1921 at 3 P.M. before the III Member of Council.

I have &c

D/ Secy & Rev Secy

List of enclosures.

Copied by

Examined by

Police 4-10-22
Sl No —

(49)

Before the Government of His Highness the Maharaja of Mysore.

1/9

Petitioners.		Opponents.
Mr. Dastagir Sab and other Mahomedan residents of Tiptur.	Vs.	Mr. Krishna Rao and other Hindu residents of Tiptur.

Petition dated 19th November 1920 presented to the Dewan praying that Government order No.G.7298-9/Police 108-19-5 dated the 2nd October 1920 regarding the passing of Hindu processions accompanied by music in front of the Masjid at Tiptur may be reconsidered.

Order. WOP 2302-8
16-9-22

The records ~~in question~~ of the case clearly show that the Masjid in question is not one of the institutions entitled to the privilege of having music stopped in front of it by processions passing along the highway. It is not one of the institutions which appears in the list of mosques prepared by the Chief Commissioner in 1876 as entitled to the stoppage of music. The right for such a privilege has been vetoed by the judgment of the Judicial Commissioner in 1871. No doubt the Masjid is not a corporation sole under the Mahomedan Law in the sense that it can sue and be sued; and it might be that that judgment is not binding on all the Mahomedans.

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But the judgment affords clear evidence of the fact that at the time that judgment was passed, the mosque was not in the enjoyment of that right. That it has not enjoyed the right subsequently too is evident from the fact that in 1882, permission to reconstruct the mosque was granted on the express understanding that the Mahomedans would not object to the playing of music in front of it. It is contended -- that since the order of 1882, music has not been played before the mosque and that permission for playing the same should not be granted now. There is no doubt that there is a large body of evidence given by disinterested witnesses which goes to show that Hindu processionists voluntarily refrained from playing music before the mosque. This might be purely from motives of good-will and neighbourly feeling towards their fellow citizens, but that does not give the right to the Mahomedans to have the music stopped at all times. The enjoyment of the concession by Mahomedans is not of a sufficiently long duration to mature into a prescriptive -- right. Nor can the Hindus be deprived of their right because the right being an inherent one, it cannot be extinguished by mere non-user. The Masjid in question can be allowed no greater privileges than what all places of worship are entitled to under the general law of the land. The order -- passed in G.O.No.G.7298-9-Police 108-19-5

dated

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dated the 2nd October 1920 is all-right and the various review petitions filed are herewith dismissed.

By Order,

Cag 8/9
For General Secretary to Govt.

Memo No.P 2303 dated 16.9.22

Copy to Mr.Dastagir Sab and other Muhammadan residents of Tiptur.

No.P 2304 dt 16.9.22 Tiptur.

Copy to Mr.Krishna Rao and other Hindu residents of Tiptur.

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B.O.

Cag 8/9
For General Secretary.

Memo No.P 2305/Enclosures as bundle of records dt 16.9.22.

Copies of the above are forwarded with compliments to the District Magistrate, Tumkur, for information. The files of records received with his letter No.J.C. 321/20-21 dated 18-12-1920 are also returned. He is requested to bring about harmony between the parties by calling upon the leaders of both the communities to come to a friendly settlement.

By Order,

Cag 8/9
For General Secretary to Govt.

KNN 8/9

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Memo of Arguments.

The petitioners are not entitled to have the Proceedings of Government No.G.7298-9-10c-19-c - dated 2-10-1920, which was evidently passed after a careful consideration of all the facts of the case, revised.

This order is based on the decision of the - Judicial Commissioner in Mysore in Special Appeal No.14 of 1871 passed so early as the 25th April, - 1871, to which all the prominent Mahomedan inhabitants of Tiptur in any way connected with the Mosque were parties. All available evidence appears to - have been placed before the Court in that case and the judgment was given in clear and unmistakeable - terms that "the defendants have entirely failed to prove that they possessed any recognized right to - put a stop to the playing of music on the highway or that there is any real usage in existence which on the face or authority of law which prohibits [illegible] music along a highway when such highway [illegible] the neighbourhood of a Mosque."

After this emphatic pronouncement by [illegible] Court of Justice in the State [illegible] the Hindu population of Tiptur [illegible] themselves of this recognised [illegible] medan population could have [illegible] exercise of such right.

The decision in [illegible]

passed when the old Ashurkhana was in existence, for it is clear that sometime after the decision an - application was made for the construction of a Mosque near the old site in which the Ashurkhana stood, indicating that the old building must have collapsed necessitating the construction of a new one.

That this state of affairs ~~confound~~ confirmed by the decision of the Judicial Commissioner was recognised not only by the parties concerned but also by the then - authorities is evident from the list prepared by the then Deputy Commissioner detailing the institutions - entitled to the stoppage of music by processions passing in front of them (prepared in 1876,) in which it - has been held that the mosque in question was not one that was entitled to such a privilege.

Sometime after the preparation of this list, the application for building the Mosque in question came up for orders before the then Deputy Commissioner Mr. Mahomed Alli who, as per his order dated the 20th. - June 1883,gave permission to the Mahomedans to erect the Mosque subject to the conditions expressly agreed to by them, that "they will have no objection whatever if processions with music will pass by the highway or by the neighbourhood of the Masjid".

This agreement appears to have been arrived at in pursuance of the instructions conveyed by Proceedings No.837-43/13 dated 6-5-1881 and the permission - to construct the Mosque was made subject to the condi-

-tions

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conditions referred to above. In consequence of this amicable settlement referred to in the said - order of the Deputy Commissioner the Mahomedans - were given the benefit of some sites &c., as referred to therein and it is not now open to them to go back upon what was then voluntarily and deliberately accepted by them and they are therefore estopped from questioning the right in question.

Is it likely that after the decision of 1871 referred to above, the preparation of the list of institutions of 1876 and this settlement of 1883, - after which last date the new Mosque must have been built that the Mahomedans would have been permitted to obstruct processions, or to acquire any such new right as is now sought to be established by them, in direct contravention of the choice deliberately made by themselves?

The notification of the Chief ~~Court~~ Commissioner requiring - the execution of agreements by the parties concerned in regard to the construction of new places of worship and more particularly of Musjids appears to have been strictly enforced in all cases subsequent to the date of that notification.

The order already passed by Government is therefore correct, just and fair and it is not open to them - to revise that order.

There is no substance in the contention of the petitioners that the order of the Judicial Commissioner is not binding on the Mosque or the petitioners.

The

The Mosque and the then Mahomedan population appear to have been properly represented in that case and it is not even suggested that the previous decision was obtained as the result of any collusion.

The subsequent acts of the authorities and the conduct acts of the Mahomedans themselves clearly - indicate that this decision was acted upon and given effect to by all concerned and the present objection is belated and unsustainable. Further the technical rules regarding res judicata laid down in the Code of Civil Procedure do not apply to administrative or - executive orders which are based on entirely different considerations altogether.

The petitions latterly filed before Government or addressed to the Dewan Saheb appear to have been - got up for the occasion by parties who are not connected with the matters in question and cannot therefore - be either taken into consideration or acted upon.

The suggestion made in the petition that the right must be deemed to have been acquired subsequent to the date of the Judicial Commissioner's decision is most improbable and cannot be accepted.

The exercise of this right claimed by the Hindu - inhabitants of Tiptur is a natural right inherent in - every subject of the State and even non-user for any - length of time of such a natural right would not extinguish it, unless the same is taken away by any law or

custom

custom having the force of law.

(Vide 13 Mysore Law Reports page 1,
16 Mysore Chief Court Reports page 35, &
21 Mysore Chief Court Reports page 18).

In this case it is clear that there has been all along a user and even otherwise no such law or custom having the force of law has been relied upon.

It is to be noted that the Musjid in question - is situated in a locality inhabited entirely by Hindus and is in close proximity of a large number of - Hindu houses and the local Basavanna Temple. The - present Mosque is nothing but a small place where some images used to be placed temporarily during Moharram - and it is only recently that that place was converted into a Mosque, which again has been constructed subject to the condition, that processions with music - should not be obstructed by Mahomedans.

The petition is therefore not maintainable and may therefore be rejected.

Sh ambekar
Advocate
for opponents